

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1500 of 1996

SHETH MOHMEDSALIM MOHMEDUMAR

Versus

STATE OF GUJARAT

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 14/03/96

ORAL ORDER

Rule. Service of Rule is waived by learned Assistant Government Pleader Shri T.H.Sompura for the respondents. By consent of the learned Lawyers appearing for the parties, this petition is taken up for its hearing and disposal today.

2. By the order passed by the Collector of Sabarkantha at Himatnagr (respondent No.2 herein) on 20th September 1995, the allotment of land granted in favour of the petitioner was cancelled on the ground that the petitioner was not using it for the purpose for which it was granted and a structure-like godown was raised by the petitioner. Its copy is at Annexure-H to this petition. It has been affirmed in revision by the order passed by and on behalf of the State of Gujarat (respondent No.1) on 9th February 1996. Its copy is at Annexure-I to this petition.

3. It is not in dispute that the petitioner was granted the land in question for his engineering business. It would be for him to raise the necessary structure for his purpose. Even if its appearance is like a godown, it would not mean that he would not be carrying on his engineering business therein. That by itself cannot be a ground to come to the conclusion that the allotted land is not used for the purpose for which it was granted.

4. The petitioner has filed his undertaking today to the effect that he has been doing engineering business on the land in question and would continue to do only that business. He has further undertaken that he shall never use the premises built on the land allotted by the

Government for any other purpose at any point of time.

5. It appears that the petitioner had constructed some steps for going into the premises raised on the land in question. The grievance voiced by and on behalf of the respondent is that it would amount to encroachment. The petitioner has stated on undertaking today that the alleged steps on the land have been removed and he would not encroach the land by putting steps any time and he would use only temporary wooden steps for ingress and egress. The petitioner has also undertaken to comply with all conditions of allotment. The undertaking is kept on record. In that view of the matter, the impugned orders no longer survive.

6. In the result, this petition is accepted. The order passed by the Collector of Sabarkantha at Himatnagar on 20th September 1995 at Annexure-H to this petition as affirmed in revision by the order passed by and on behalf of the State of Gujarat on 9th February 1996 at Annexure-I to this petition is quashed and set aside. Rule is accordingly made absolute with no order as to costs.

14th March 1996

(A.N.DIVECHA, J.)